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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/11

SPONSOR Gutierrez LAST UPDATED _____ HB 508

SHORT TITLE Replace DFA Local Government Division SB _____

ANALYST _____

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$2,035.0	\$2,035.0	\$4,070.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Note: If the planning function were grafted onto the existing Local Government Division as a bureau rather than restructuring the entire Division, then the cost would be about \$285.0 less per year.

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Department of Agriculture (NMDA)
 Department of Finance and Administration (DFA)
 New Mexico Mortgage Finance Authority (NMFA)
 Energy, Minerals and Natural Resources/State Parks Division (EMNRD/SPD)

SUMMARY

Synopsis of Bill

House Bill 508 (HB 508) proposes replacing the Local Government Division of the Department of Finance and Administration with the Planning and Community Development Division of DFA (DFA/PCDD). The bill specifies qualifications of the Division Director and specifies the new and current duties and responsibilities of the new division:

- the PCDD would acquire, study and review plans for capital projects proposed by state agencies and provide advice on the plans;
- maintain an inventory of and long-range estimates for plans for capital projects and develop standards for measuring the need for and the utility of proposed projects, including cost, function, location, and relevancy to community plans and local priorities;
- provide CDBG technical assistance and administer the CDBG program;
- serve as staff to the New Mexico association of regional councils and the Acequia Commission;

- maintain a publically accessible state planning library, census information and digital planning information;
- develop a statewide comprehensive growth management plan, in cooperation with other state agencies, that includes water, mineral exploitation, transportation, economic development, affordable housing, protection of cultural resources and agricultural lands and development of renewable energy;
- develop a statewide comprehensive geographic information system;
- propose updates to the Legislature for changes to the statutes governing planning, zoning, and subdivision and involve the public in its programs and initiatives; submit annual reports for review and comment to the governor and the appropriate interim committees of the Legislature regarding community planning and development activities and accomplishments;

While this bill specifies new duties of the planning and community development division of DFA in some detail, the oldest and singularly most important duty of the local government division is ignored. That is the duty and responsibility to approve budgets and oversee financial management of all 104 municipalities, 33 counties and over 1,000 special districts and to calculate property tax rates for every jurisdiction in the state. This responsibility is so important that the secretary of finance and administration would likely rely on the authority granted in 9-6-3 NMSA 1978 to create an additional division by executive order simply to accomplish this core mission. Thus, this new division will largely be developed from a zero base.

The effective date of the act is January 1, 2012.

FISCAL IMPLICATIONS

DFA responds: “For the new Division to comply with the mandates of HB 508 would necessitate a minimum of nine additional staff -- two Information Technology Analysts, five Certified Planners, one GIS professional, and one Attorney. An appropriation of \$1,750,000 from the State General Fund is needed to provide these staffing needs.”

LFC notes that a new division would need to be created to maintain the financial and programmatic oversight functions of the existing division. These functions don't fit within the duties required of the Planning and Community Development Division and would be best assigned to a new division or the Planning and Community Development Division should be added to the establishment of the DFA:

- Budget and Finance Bureau
- Capital Outlay Bureau
- Special Programs Bureau (E-911, DWI, other programs)
- Fiscal Services Bureau

In either event, there should be a division director and deputy for the new Planning and Community Development functions within DFA. This would add another \$285.0 annually (allowing for salary, benefits, travel and office expenses).

SIGNIFICANT ISSUES

DFA's analysis accepts and embraces the necessity for improved statewide planning, but identifies a number of details of this proposal that need some rethinking. In particular, the bill needs to emphasize that a great deal of advance planning already takes place within the executive agencies – OSE/ISC, EMNRD, DOT, NMFA, EDD, PED, HED and DOH, to mention a few. The conduct of the new planning function at DFA should be to assemble, coordinate and disseminate these plans, not to generate additional plans in areas that are already reasonably well covered.

NMDA observes that, "...the planning and community development division will have far-reaching and expanded (over the existing local government division of DFA) responsibilities for planning to include key areas of interest to the state such as protection and development of the state's natural resources such as water and other minerals (currently accomplished by energy, minerals and natural resources department and the office of the state engineer, soil and water conservation districts, environment department to name a few such entities already working in these areas); development of major infrastructure for transportation and economic development; assurance of affordable housing and renewable energy; and protection of land resources for agriculture (various agencies including soil and water conservation districts provide services in the realm of protection of land resources for agriculture) and protection of cultural resources; coordinate the state growth management planning process with the cooperation of other relevant state agencies to assure that community development is in the interest of promoting the safety and general welfare of the residents of the state; involve the public in its programs and initiatives including, from time to time, the use of ad hoc citizen task forces or advisory committees to study and advise on selected problems of interest to the state."

NMDA questions whether a planning background for the new division director should be required. Qualifications should be sufficiently broad to select the best candidate, not just the best candidate with a planning background.

Many, if not most, of the duties and responsibilities proposed to be assigned to the planning and community development division are within the expertise of existing state agencies. It will somewhat difficult for the new planning division to assume both a coordinating role and an active research and management role.

PERFORMANCE IMPLICATIONS

Because the duties are largely new to DFA, it will be several years before appropriate performance measures can be specified and tracked.

ADMINISTRATIVE IMPLICATIONS

It is not at all clear where DFA could house an addition nine to 12 staff.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB66 merges state personnel with DFA;
SB131 creates a Capital Outlay Planning and Monitoring Division within DFA;

SB193 require the Property Control Division along with the Department of Finance and Administration to jointly prepare a five-year program of all state capital improvement projects; SM6 requests the LFC, DFA, NMML, NMAC, all Indian Pueblo Council, the Navajo Nation and LCS form a committee and collaborate on a process to prioritize, review and monitor capital outlay projects;

SJM9 requests that state, county, local and tribal governments produce an inventory of capital outlay projects that have broken ground but are incomplete.

ALTERNATIVES

Retain the local government division within DFA with that title; create the new planning and community development functions of this bill as a bureau within the LGD; expand the duties of the LGD to include some of the capital outlay planning functions proposed in SB131, SB193, SM6 and SJM9.

Delete the requirement that the division director be a planner. The overall functions of the local government division are far broader than planning. The cabinet secretary should be allowed to select the best division director available, not just the best available.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state would, once again, lose the opportunity to systematically plan its future.

LG/svb